

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SHANNON’S RAINBOW, LLC, a Utah
limited liability company, SHANNON’S
RAINBOW, LLC, a Delaware limited
liability company, SHANNON’S RAINBOW
PRODUCTION, a Pennsylvania limited
liability company,

Plaintiffs,

vs.

SUPERNOVA MEDIA, Inc. a New York
corporation; JOCELYN ENGLE a/k/a/
JOYCELYN DIPALMA, an individual;
JOSEPH DIPALMA, an individual; and
JULIANNE MICHELLE, an individual, and
KELLY KENT, and individual, and Does 1-
100,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING DEFENDANTS’
MOTIONS TO STAY
PROCEEDINGS RELATED TO
*“PLAINTIFFS’ MOTION TO AMEND
THE COMPLAINT, FOR CONTEMPT
AND SANCTIONS, OR
ALTERNATIVELY, FOR LEAVE TO
CONDUCT LIVE DISCOVERY”* OR
ALTERNATIVELY, TO EXTEND
THE SUPERNOVA DEFENDANTS’
DEADLINE TO OPPOSE
PLAINTIFFS’ MOTION

Case No. 2:08-CV-880 TS

This issue is before the Court on Defendant's Motion to Stay Proceedings Related to Plaintiffs' Motion to Amend the Complaint, and other alternative pleadings. For the following reasons the Court will grant the motion.

Defendants ask the Court to stay pending motions, mainly a motion to amend the Complaint, until dispositive motions regarding personal and subject matter jurisdiction have been determined. The Court is scheduled to hear oral argument on motions to dismiss based on both personal and subject matter jurisdiction on January 11, 2010. Without subject matter jurisdiction, this Court has no authority to hear this matter or to make any decisions. Under Fed. R. Civ. P. rule 60(b)(4) , "an order is void if a court lacked subject matter jurisdiction over the matter."¹ If the Court does find it lacks subject matter jurisdiction, it would not have the authority to grant leave to amend the Complaint because the Court would have lacked jurisdiction over the dispute. Further, under Rule 60(b)(4) the order would be void anyway.

The issue is a circular one. Without subject matter jurisdiction the Court does not have authority to rule on the issue. The Court cannot grant leave to amend to create additional foundation for subject matter jurisdiction, if the Court does not have such jurisdiction in the first instance.

It is therefore

¹FED. R. CIV. P. 60(b)(4).

ORDERED Defendants' Motion to Stay (Docket No. 58) is GRANTED.

DATED December 7, 2009.

BY THE COURT:



TED STEWART
United States District Judge